



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE, et al.

Defendants.
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21-CV-3687 (ALC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order addresses Hedgeye's letter motion at Dkt. 686 to strike the "supplemental" expert report of Jordan Milev submitted by the Terman Defendants. Exercising the Court's discretion, the motion is denied. Other than reaffirming the data analysis of Mr. Milev's opening report, the short supplemental report briefly rebuts two statements of Hedgeye's expert Reilly, who, in rebutting Mr. Milev's opening report, asserted opinions (about whether the trades at issue could be considered "front running ... unfair or unlawful") that were not the focus of the Milev opening report. (See Dkt. 687-3 at paragraphs 12-14 (rebutting two statements from the Reilly report).) Although Mr. Milev's supplemental report was produced only two days before the deposition of Mr. Milev, the limited content of his rebuttal report should have posed little to no obstacle to review and questioning of its content if Hedgeye had wanted to pursue the matter. To be clear, the Court is merely denying the motion to strike. In the future, there may be reason to exclude opinions in the supplemental report from trial: for instance, in the event that the Court were to exclude as evidence at trial the corresponding opinions from the Reilly report (whether for reasons of relevance, prejudice outweighing probative value, or

otherwise), then Mr. Milev's supplemental report would merit exclusion as well. But if Mr. Reilly is permitted to address at trial the issues to which the Milev supplemental report responds, then fairness dictates allowing Mr. Milev to rebut them.

The Clerk of Court is directed to terminate the letter motion at Dkt. 686.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal stroke extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: September 10, 2024
New York, New York

Copies transmitted this date to all counsel of record.